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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1984

LOUIE L. WAINWRIGHT, Secretary,
Department of Corrections,
State of Florida,

Petitioner,

vs.

CARL RAY SONGER

Respondent.

On Petition for a Writ of Certiorari
To the United States Court of
Appeals for the Eleventh Circuit
Before Judgment

BRIEF OF PETITIONER ON JURISDICTION

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QUESTION PRESENTED

MAY A FEDERAL COURT OF APPEALS AFTER AFFIRMING THE DENIAL OF HABEAS CORPUS RELIEF AND AFTER DENIAL OF CERTIORARI BY THE UNITED STATES SUPREME COURT ENTERTAIN THE IDENTICAL CLAIM IN A SECOND HABEAS APPEAL AND EFFECTIVELY ENJOIN THE STATE FROM EXECUTING ITS CAPITAL SENTENCES IN ALL PRE-LOCKETT CASES MERELY ON THE BASIS THAT EN BANC REVIEW IS PENDING IN ANOTHER CASE ON A SIMILAR ISSUE?

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OPINIONS BELOW

The United States Court of Appeals for the Eleventh Circuit has not issued an opinion on the merits of the appeal. The 11th Circuit panel which heard Songer v. Wainwright, Case No. 85-3064 entered an order on February 5, 1985 staying respondent's execution. This order appears in the appendix as "A 1 - 5". The order and opinion of the district court on the second habeas petition appears as "A 18 - 41". The order and opinion of the state circuit court and Florida Supreme Court on the successive motion under Rule 3.850, Fla.R.Crim.P., appears in the appendix as "A 49 - 67" and "A 42 - 48", respectively.

The opinions of the district court and circuit court on the first federal habeas petition are reported at